

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

13 CV 1884

Benjamin Holmes

(In the space above enter the full name(s) of the plaintiff(s).)

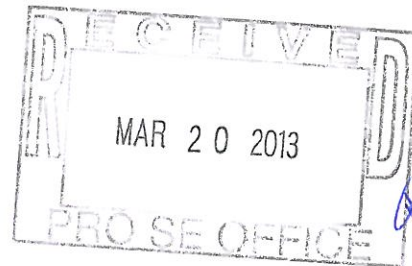
COMPLAINT

-against-

The State of New York

Jury Trial: ☒ Yes ☐ No
(check one)

(In the space above enter the full name(s) of the defendant(s). If you cannot fit the names of all of the defendants in the space provided, please write "see attached" in the space above and attach an additional sheet of paper with the full list of names. The names listed in the above caption must be identical to those contained in Part I. Addresses should not be included here.)



I. Parties in this complaint:

- A. List your name, address and telephone number. If you are presently in custody, include your identification number and the name and address of your current place of confinement. Do the same for any additional plaintiffs named. Attach additional sheets of paper as necessary.

Plaintiff

Name Benjamin Holmes

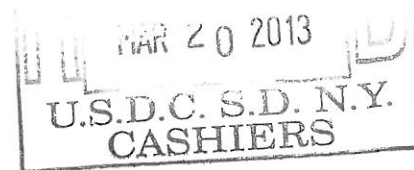
Street Address P.O. Box 764

County, City Brooklyn

State & Zip Code New York 10469

Telephone Number 347-3136258

- B. List all defendants. You should state the full name of the defendant, even if that defendant is a government agency, an organization, a corporation, or an individual. Include the address where each defendant may be served. Make sure that the defendant(s) listed below are identical to those contained in the above caption. Attach additional sheets of paper as necessary.



Defendant No. 1 Name Workers Compensation Board
 Street Address P.O. Box 5205
 County, City Binghamton
 State & Zip Code N.Y. 13902 5205
 Telephone Number 1 800-877 1373

Defendant No. 2 Name _____
 Street Address _____
 County, City _____
 State & Zip Code _____
 Telephone Number _____

Defendant No. 3 Name _____
 Street Address _____
 County, City _____
 State & Zip Code _____
 Telephone Number _____

Defendant No. 4 Name _____
 Street Address _____
 County, City _____
 State & Zip Code _____
 Telephone Number _____

II. Basis for Jurisdiction:

Federal courts are courts of limited jurisdiction. Only two types of cases can be heard in federal court: cases involving a federal question and cases involving diversity of citizenship of the parties. Under 28 U.S.C. § 1331, a case involving the United States Constitution or federal laws or treaties is a federal question case. Under 28 U.S.C. § 1332, a case in which a citizen of one state sues a citizen of another state and the amount in damages is more than \$75,000 is a diversity of citizenship case.

A. What is the basis for federal court jurisdiction? (check all that apply)

☒ Federal Questions

☐ Diversity of Citizenship

B. If the basis for jurisdiction is Federal Question, what federal Constitutional, statutory or treaty right is at issue? _____

C. If the basis for jurisdiction is Diversity of Citizenship, what is the state of citizenship of each party?

Plaintiff(s) state(s) of citizenship Benford S.C.

Defendant(s) state(s) of citizenship South Carolina

III. Statement of Claim:

State as briefly as possible the facts of your case. Describe how each of the defendants named in the caption of this complaint is involved in this action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Attach additional sheets of paper as necessary.

A. Where did the events giving rise to your claim(s) occur? New York Parks Department
At Dishrock 12

B. What date and approximate time did the events giving rise to your claim(s) occur? 11/01/2006
12:30 P.M. I went home I was sick

I had a Heart Attack Chest Pain and Blinding from the nose

C. Facts:

What
happened
to you?

I was trying to get Worker Compensation for the Pass
6 years the insurance agency saying that I did not get
Hurt on the Job

Who did
what?

I keep getting Hearing after one after another
and I was denied I have denied a Paper.

Was anyone
else
involved?

I have an Attorney but they tell me that I going
to get a Hearing and never get one

Who else
saw what
happened?

The only one saw anything was the people
at work and I would have to pull all the record
from the Park Department and I need help with
that

IV. Injuries.

If you sustained injuries related to the events alleged above, describe them and state what medical treatment, if any, you required and received. I had hypertension they try to control
the hypertension when I had a Heart Attack in 2005 of March
the Doctor instructions no Heavy Lifting or Pushing at Bronx
Lebanon Hospital after that the Park Department put me
back to work in 2006 of March. in November of 2006 I was
having Chest Pain on the Job the Job was all went I did
not return to work not one time but two time
and they denied me my Worker Compensation my understanding
that they have insurance to keep people from a lawsuit.

V. Relief:

State what you want the Court to do for you and the amount of monetary compensation, if any, you are seeking, and the basis for such compensation. I am a Sick man with a mini-Mitral valve replacement in Monte Fiore Hospital in Jan-s in ~~2007~~ -2007- I am on lot of medication I am on 10 different Pills that Cut me up inside. and I have a nothe leaky Valve a doctor at Bellevue Hospital that I had a leaky Valve a doctor Miller Louis, that mean that I would have to get a nother operation. I am asking New York for Compensation of twenty million dollar I thank that will be enough ~~to~~ Compensation for 6 years Thank you

I declare under penalty of perjury that the foregoing is true and correct.

Signed this 20 day of March, 2013.

Signature of Plaintiff

Mailing Address

Telephone Number

Fax Number (if you have one)

Benjamin Halmer
P.O. Box 764
Bronx N.Y. 10469

347-313-6258

Note: All plaintiffs named in the caption of the complaint must date and sign the complaint. Prisoners must also provide their inmate numbers, present place of confinement, and address.

For Prisoners:

I declare under penalty of perjury that on this 20 day of March, 2013 I am delivering this complaint to prison authorities to be mailed to the Pro Se Office of the United States District Court for the Southern District of New York.

Signature of Plaintiff:

Inmate Number

Benjamin Halmer

Final Diagnoses:

HYPERTENSION, H/O HEART ATTACK IN 2005 MARCH

Accommodations Required For Employment:

Limited Lifting; Limited Pulling; Limited Pushing;

Employment Disposition:

Medical Limitations To Employment That Require Vocational Rehabilitation, and/or Specialized Supports

Narrative Supporting Recommendation:

PT IS A 52 YO AAM WITH H/O HYPERTENSION AND HEART ATTACK IN MARCH 2005 IS CLEARLY STABLE AT THIS TIME WITHOUT ANY CHEST PAIN , SOB OR ANY PHYSICAL FINDINGS ON EXAM. PT NEEDS VOC REHAB FOR STABLIZATION, FUNCTIONAL IMPROVEMENT AND FOR WORK READINESS. PT CAN NOT HEAVY LIFTING OR PUSHING JOB BUT CLEARLY IS ABLE TO DO LESS EXERTIONAL JOB.

Comments:

(Completed 10/26/2005 By M. Shuja, , Bronx Lebanon Hospital)

Medical Conditions Impacting Or Requiring Stabilization For Employment

Date Identified	Domain	Diagnosis Affecting Employment	Recommended Treatment/ Action Plan	Target Date
10/26/2005	Medical	HYPERTENSION	PCP	
10/26/2005	Medical	H/O HEART ATTACK	PCP/ CARDIOLOGY	

(Completed 10/26/2005 By M. Shuja, , Bronx Lebanon Hospital)

Medical Needs Not Affecting Employment

Referral Needed For PCP - Routine: Yes

Referral Needed For PCP - Emergent? No

Referral Needed For ER? No

Comments:

(Completed 10/26/2005 By M. Shuja, , Bronx Lebanon Hospital)



Robert E. Beloten
Chair

STATE OF NEW YORK
WORKERS' COMPENSATION BOARD
PO BOX 5205
BINGHAMTON, NY 13902-5205
www.wcb.ny.gov
(800) 877-1373

State of New York - Workers' Compensation Board
In regard to Benjamin Holmes, WCB Case #G047 7983

NOTICE OF DECISION

keep for your records

At the Workers' Compensation hearing held on 09/19/2012 involving the claim of Benjamin Holmes at the Manhattan hearing location, Judge William Dugan made the following decision, findings and directions:

DECISION: Issues in controversy (C-7 issues) have been raised by the carrier/employer.

I was Late 30 min- I was There
Claimant did not appear at the hearing, or was otherwise not prepared to proceed - there is no medical in the file.

The case is continued to address the following issue(s): Accident Within Meaning Of Workers' Compensation Law, Accident Arising Out Of And In The Course Of Employment, Occupational Disease Within Meaning Of Workers' Compensation Law, Occupational Disease Arising Out Of And In The Course Of Employment, Notice (Section 18), Timely Filing (Section 28). This case is not subject to the expedited hearing process and penalties.

Claimant - Benjamin Holmes
Social Security No. -
WCB Case No. - G047 7983
Date of Accident - 11/01/2006
District Office - NYC

Employer - NYC Parks & Recreation
Carrier - City of New York
Carrier ID No. - W847008
Carrier Case No. - 0846-12-02699
Date of Filing of this Decision - 09/24/2012

ATENCION:

Puede llamar a la oficina de la Junta de Compensacion Obrera, en su area correspondiente, cuyo numero de telefono aparece al principio de la pagina y pida informacion acerca de su reclamacion(caso).

Copies To:

Claimant:

Carrier:

Employer:

Other:

Benjamin Holmes

City of New York

NYC Parks & Recreation

Joseph A. Romano Law Offices

Benjamin Holmes
PO Box 764
Bronx, NY 10469-0702

**NOTICE TO INJURED WORKER**

1. Any compensation due will be sent to you by check by the employer or insurance carrier.
2. Keep a careful record of the payments received in order that you may have evidence of payment or nonpayment in case of dispute.
3. Do not pay anything to anyone representing you. If you hire a lawyer or licensed representative, the fee will be set by a W.C.Law Judge. The fee will be deducted from your award and paid by separate check directly to the lawyer or licensed representative by the employer or the insurance carrier.
4. Except for Volunteer Firefighters' and Volunteer Ambulance Workers' claims, no lost wage benefits are paid for the first seven days of disability unless the disability extends beyond 14 days.
5. If your case was continued and the Judge directed that your benefits are to continue, the insurance company or self-insured employer must keep paying you until :
 - (a) you have another hearing and the Judge stops or changes your benefitsor
 - (b) your employer or insurance company has evidence that you have returned to work at regular pay or a report from your doctor stating you have no disability and submits this evidence to the Workers' Compensation Board.
6. If you wish to apply for administrative review of any part or all of the Judge's decision, your application must be in writing and received by the Board within 30 days of the filing date of this decision. The filing date is on the other side of this form in the lower right-hand corner. You may deliver your application in person to the District office or send it by mail.
7. If you have any further questions, you may contact your district office by mail or by telephone. The address of your district office is:

STATE OF NEW YORK
WORKERS' COMPENSATION BOARD
PO BOX 5205
BINGHAMTON, NY 13902-5205

Phone Number: (800) 877-1373

SOCIAL SECURITY ADMINISTRATION

Date: March 14, 2013
Claim Number: XXX-XX-3996A
XXX-XX-3996DI

BENJAMIN HOLMES
PO BOX 764
BRONX NY 10469-0702

You asked us for information from your record. The information that you requested is shown below. If you want anyone else to have this information, you may send them this letter.

Information About Current Social Security Benefits

Beginning December 2012, the full monthly
Social Security benefit before any deductions is.....\$ 307.70

We deduct \$0.00 for medical insurance premiums each month.

The regular monthly Social Security payment is.....\$ 307.00
(We must round down to the whole dollar.)

Social Security benefits for a given month are paid the following month. (For example, Social Security benefits for March are paid in April.)

Your Social Security benefits are paid on or about the third of each month.

Information About Supplemental Security Income Payments

Beginning January 2013, the current
Supplemental Security Income payment is.....\$ 430.30

This is after we have withheld 79.70 to recover an overpayment.

This payment amount may change from month to month if income or living situation changes.

Supplemental Security Income Payments are paid the month they are due. (For example, Supplemental Security Income Payments for March are paid in March.)

Date of Birth Information

The date of birth shown on our records is April 19, 1953.